



Making San Francisco Bay Better

August 11, 2009

PBS&J
353 Sacramento Street, Suite 1000
San Francisco, California

ATTENTION: Michael Kay, Consultant

SUBJECT: BCDC Permit No. M09-18

Dear Mr. Kay:

Enclosed please find an original of BCDC Permit No. M09-18, stamped "BCDC Original," and a copy, stamped "Permittee's Copy," both executed by the Executive Director. Please make sure to: (1) **complete** the acknowledgment section of the permit stamped "BCDC Original," which indicates that you have read and that you understand all of the terms and conditions of the permit, and (2) **return** the entire "BCDC Original" to the Commission's office within the ten-day time period. The copy stamped "Permittee's Copy" should be retained by you for your records along with the Notice of Completion which must be returned to us upon project completion.

Furthermore, your permit contains special conditions which require you to take certain specific actions. Attached is a checklist to assist you in following the correct procedures. Please understand that **no** work may commence on the project until the permit stamped "BCDC Original" is executed and returned to us. Until the Commission receives the executed permit, the City of Belmont does not have the necessary authorization for the work authorized under the permit. The commencement of any work within the Commission's jurisdiction without the necessary authorization from the Commission is a violation of the McAteer-Petris Act and could subject you to substantial fines.

If you have any questions concerning the permit or the procedure outlined above, please feel free to contact me at 415-352-3669 or karenw@bcdC.ca.gov.

Very truly yours,

KAREN WEISS
Coastal Program Analyst

KW/ra
Enc.

EXHIBIT A
For Permit Compliance

Permit No.: M09-18
Permittee: City of Belmont
Date Issued: August 11, 2009
Analyst: Karen Weiss

PERMITTEE CHECKLIST

Within 10 Days of the Issuance of this Permit

- ☐ Return the executed Original permit to BCDC

Prior to Each Construction Phase, Submit the Appropriate Final Plans for BCDC Approval

- ☐ Public Access Plans
☐ Bridge Plans
☐ Best Management Practices Plan
☐ Construction Details

Within 30 Days Following Project Completion

- ☐ Submit Notice of Completion
☐ (Final Site Inspection)

On-Going Permit Responsibilities

- ☐ Transfer Assignment of this Permit to New Owners
Upon Sale of this Property Interest

FOR BCDC USE

Received _____

Approved _____

Approved _____

Approved _____

Approved _____

Received _____

Inspected _____

Received _____

PERMIT NO. M09-18

CITY OF BELMONT

CERTIFICATION OF CONTRACTOR REVIEW

San Francisco Bay Conservation
and Development Commission
50 California Street, Suite 2600
San Francisco, CA 94111

Ladies and Gentlemen:

You are hereby informed that prior to commencing any grading, demolition, or construction authorized by the above referenced permit, I personally reviewed and understand the terms and conditions of the permit, the final plans approved by or on behalf of the Commission, particularly as they pertain to the public access, open space, and environmentally sensitive areas required herein, for those portions of the work for which I am in charge.

I, _____, hereby declare under penalty of perjury that the foregoing is true and correct and that if called upon to testify to the contents of this notice, I would so testify.

Executed on this _____ day of _____, 20____,
at _____,
California.

Contractor Name and Company

(Title)

PERMIT NO. M09-18

CITY OF BELMONT

NOTICE OF COMPLETION AND DECLARATION OF COMPLIANCE

San Francisco Bay Conservation
and Development Commission
50 California Street, Suite 2600
San Francisco, CA 94111

Ladies and Gentlemen:

You are hereby informed that the work authorized by the above-referenced permit was completed on _____.

I have personally reviewed the terms and conditions of the permit, the final plans approved by or on behalf of the Commission, and the completed project and hereby certify that the project is in compliance with all terms and conditions of the permit and conforms to the plans previously reviewed and approved by or on behalf of the Commission. I further certify that all conditions of the permit, particularly with regard to plan review, public access areas and improvements, recordation, open space restrictions and other special conditions have been met.

I, _____, hereby declare under penalty of perjury that the foregoing is true and correct and that if called upon to testify to the contents of this notice, I would so testify.

Executed on this _____ day of _____, 20____,
at _____

California.

(Permittee)

(Title)



Making San Francisco Bay Better

PERMIT NO. M09-18

August 11, 2009

City of Belmont
1070 Sixth Avenue, Suite 306
Belmont, California 94002

ATTENTION: Jack Chris, City Manager

Dear Mr. Chris:

I. Authorization

A. Subject to the conditions stated below, the permittee, the City of Belmont, is hereby authorized to do the following:

Location: In the Bay and within the 100-foot shoreline band, over O'Neil Slough, at the ballfields near 550 Island Parkway, in the City of Belmont, San Mateo County.

Description:

1. In the Bay:

Place, use and maintain on an in-kind basis an approximately 10-foot-wide, 90-foot-long cantilevered bicycle and pedestrian bridge.

2. Within the 100-foot shoreline band:

- a. At the southern bank: (1) construct an approximately 130-foot-long, 10-foot-wide bicycle and pedestrian pathway to connect to an existing Bay Trail, (2) place one abutment for the prefabricated steel truss bridge, and (3) place public access signs;
- b. At the northern bank: (1) construct an approximately 40-foot-long, 10 to 20-foot-wide bicycle and pedestrian pathway and landing to connect to an existing Bay Trail, (2) place one abutment for the prefabricated steel truss bridge, and (3) place public access signs; and
- c. Conduct on-going, in-kind repair and maintenance of the pathway and associated improvements authorized herein.

B. This authority is generally pursuant to and limited by your application dated April 30, 2009 including its accompanying exhibits and all conditions of this permit.

C. Work authorized herein must commence prior to August 1, 2011, or this permit will lapse and become null and void. Such work must also be diligently pursued to completion and must be completed within two years of commencement, or by August 1, 2013, whichever is earlier, unless an extension of time is granted by amendment of the permit.

II. Special Conditions

The authorization made herein shall be subject to the following special conditions, in addition to the standard conditions in Part IV:

A. Specific Plans and Plan Review

1. **Construction.** The final plans submitted pursuant to this condition shall generally conform with the plan entitled "O'Neil Slough Bridge: Public Access Exhibit," prepared by T.Y. Lin International, as revised through August 4, 2009. Final plans for the shoreline protection improvements shall be prepared and submitted for BCDC review as described below. No changes to the design of the project shall be made without the prior written approval of the BCDC staff.
2. **Plan Review.** No work whatsoever shall be commenced pursuant to this authorization until final precise site, engineering, grading, and landscaping plans and any other relevant criteria, specifications, and plan information for that portion of the work have been submitted to, reviewed, and approved in writing by or on behalf of the Commission. The specific drawings and information required will be determined by the staff. To save time, preliminary drawings should be submitted and approved prior to final drawings.

Site, engineering, grading, and landscaping plans shall include and clearly label the shoreline (Mean High Water Line or the inland edge of marsh vegetation up to 5 feet above Mean Sea Level if tidal marsh is present), the line 100 feet inland of the line of the shoreline, property lines, the boundaries of all areas to be reserved for public access purposes and open space, grading, details showing the location, types, dimensions, and materials to be used for all irrigation, landscaping, drainage, signs, fences, paths, utilities and other proposed improvements.

Plans submitted shall be accompanied by a letter requesting plan approval, identifying the type of plans submitted, the portion of the project involved, and indicating whether the plans are final or preliminary. Approval or disapproval shall be based upon:

- (a) completeness and accuracy of the plans in showing the features required above, particularly the shoreline (Mean High Water Line or the inland edge of marsh vegetation up to 5 feet above Mean Sea Level if tidal marsh is present), property lines, and the line 100-feet inland of the shoreline, and any other criteria required by this authorization;
- (b) consistency of the plans with the terms and conditions of this authorization;
- (c) the provision of the amount and quality of public access to and along the shoreline and in and through the project to the shoreline required by this authorization, but limited to ensuring: (1) the public's use and enjoyment of the access area; (2) public safety; (3) accessibility for persons with disabilities; (4) sufficient durability and maintenance; and (5) the access is clear and continuous and encourages public use;
- (d) assuring that any fill in the Bay does not exceed this authorization and will consist of appropriate shoreline protection materials as determined by or on behalf of the Commission;

- (e) consistency of the plans with the recommendations of the Design Review Board; and
- (f) assuring that appropriate provisions have been incorporated for safety in case of seismic event.

Plan review shall be completed by or on behalf of the Commission within 45 days after receipt of the plans to be reviewed.

3. **Conformity with Final Approved Plans.** All work, improvements, and uses shall conform to the final approved plans. Prior to any use of the facilities authorized herein, the appropriate design professional(s) of record shall certify in writing that, through personal knowledge, the work covered by the authorization has been performed in accordance with the approved design criteria and in substantial conformance with the approved plans. No noticeable changes shall be made thereafter to any final plans or to the bridge, outside fixture, landscaping, signage, or trail improvements without first obtaining written approval of the change(s) by or on behalf of the Commission.
4. **Discrepancies between Approved Plans and Special Conditions.** In case of any discrepancy between final approved plans and Special Conditions of this authorization or legal instruments approved pursuant to this authorization, the Special Condition or the legal instrument shall prevail. The permittee is responsible for assuring that all plans accurately and fully reflect the Special Conditions of this authorization and any legal instruments submitted pursuant to this authorization.
5. **Appeals of Plan Review Decisions.** Any plan approval, conditional plan approval or plan denial may be appealed by the permittee or any other interested party to the Design Review Board or, if necessary, subsequently to the Commission. Such appeals must be submitted to the Executive Director within 30 days of the plan review action and must include the specific reasons for appeal. The Design Review Board shall hold a public hearing and act on the appeal within 60 days of the receipt of the appeal. If subsequently appealed to the Commission, the Commission shall hold a public hearing and act on the appeal within 90 days of the receipt of the subsequent appeal.

B. Public Access

1. **Area.** The approximately 2,900 square feet area, along approximately 165 feet of shoreline as generally shown on Exhibit "A" shall be made available exclusively to the public for unrestricted public access for walking, bicycling, sitting, viewing, and related purposes. If the permittee wishes to use the public access area for other than public access purposes, it must obtain prior written approval by or on behalf of the Commission.

The overall proposal for public access for this project includes:

New public access in the shoreline band:

2,900 square feet

2. **Improvements Within the Total Public Access Area.** Prior to the use of any structure authorized herein, the permittee shall install the following improvements, as generally shown on attached Exhibit A:

- (a) A 90-foot-long, 10-foot-wide bicycle and pedestrian bridge in the Bay with a 54-inch high railing;
- (b) A 130-foot-long, 10-foot-wide path on the northern end of the bridge that will smoothly transition to the existing Bay Trail;
- (c) A 40-foot-long, 10 to 20-foot-wide bicycle and pedestrian pathway and landing on the southern end of the bridge to connect to the existing Bay Trail; and
- (d) No fewer than two public access signs and, when appropriate, Bay Trail signs, each near the bridge entrance on either side of O'Neil Slough.

Such improvements shall be consistent with the plan entitled "O'Neil Slough Bridge: Public Access Exhibit," prepared by T.Y. Lin International, as revised through August 4, 2009.

- 3. **Reasonable Rules and Restrictions.** The permittee may impose reasonable rules and restrictions for the use of the public access areas to correct particular problems that may arise. Such limitations, rules, and restrictions shall have first been approved by or on behalf of the Commission upon a finding that the proposed rules would not significantly affect the public nature of the area, would not unduly interfere with reasonable public use of the public access areas, and would tend to correct a specific problem that the permittee has both identified and substantiated. Rules may include restricting hours of use and delineating appropriate behavior.
- 4. **Barrier Free Access.** The permittee shall provide public access that meets the requirements of the American with Disabilities Act along all public paths including those leading to and across the bridge.
- 5. **Maintenance.** The areas and improvements within the total 3,000-square-foot area shall be permanently maintained by and at the expense of, the permittee or its assignees. Such maintenance shall include, but is not limited to, repairs to all path surfaces; replacement of any trees or other plant materials that die or become unkempt; repairs or replacement as needed of any public access amenities such as signs, periodic cleanup of litter and other materials deposited within the access areas; removal of any encroachments into the access areas; and assuring that the public access signs remain in place and visible. Within 30 days after notification by staff, the permittee shall correct any maintenance deficiency noted in a staff inspection of the site.
- 6. **Assignment.** The permittee shall transfer maintenance responsibility to a public agency or another party acceptable to the Commission at such time as the property transfers to a new party in interest but only provided that the transferee agrees in writing, acceptable to counsel for the Commission, to be bound by all terms and conditions of this permit.

C. Best Construction Management Practices

- 1. **Construction Operations.** All construction operations shall be performed to prevent construction materials from falling into the Bay. In the event that such material escapes or is placed in an area subject to tidal action of the Bay, the permittee shall immediately retrieve and remove such material at their expense.

2. **Creosote Treated Wood.** No pilings or other wood structures that have been pressure treated with creosote shall be used in any area subject to tidal action in the Bay or any certain waterway, in any salt pond, or in any managed wetland within the Commission's jurisdiction as part of the project authorized herein.
3. **Debris Removal.** All construction debris shall be removed to an authorized location outside the jurisdiction of the Commission. In the event that any such material is placed in any area within the Commission's jurisdiction, the permittee, its assigns, or successors in interest, or the owner of the improvements, shall remove such material, at its expense, within ten days after it has been notified by the Executive Director of such placement.

D. In-Kind Repairs and Maintenance. Any in-kind repairs and maintenance of the bridge and bicycle/pedestrian path shall only use construction material that is approved for use in San Francisco Bay. Construction shall only occur during current approved months during the year to avoid potential impacts to fish and wildlife. BCDC staff should be contacted to confirm current restrictions.

E. Hold Harmless Agreement. The permittee agrees to indemnify, defend and save harmless the State of California, its agencies, departments, officers, agents and employees from any and all claims, demands, losses or judgments accruing or resulting to any person, firm, corporation or entity who may be injured or damaged by work performed in accordance with the terms and conditions of this permit.

F. Commission Jurisdiction Over Fill Area. Notice is hereby given that, under the McAteer-Petris Act, the area of the approved project that is within the Commission's jurisdiction under Section 66610(a) remains within that jurisdiction even after fill or substantial change in use, authorized by the Commission, may have changed the character of the area; so that the permittee or the permittee's successors in interest will require further action by or on behalf of the Commission prior to any future change of use or work within areas filled pursuant to this authorization.

G. Abandonment. If, at any time, the Commission determines that the improvements in the Bay authorized herein, have been abandoned for a period of two years or more, or have deteriorated to the point that public health, safety or welfare is adversely affected, the Commission may require that the improvements be removed by the permittee, its assigns or successors in interest, or by the owner of the improvements, within 60 days or such other reasonable time as the Commission may direct.

H. Certification of Contractor Review. Prior to commencing any grading, demolition, or construction, the general contractor or contractors in charge of that portion of the work shall submit written certification that s/he has reviewed and understands the requirements of the permit and the final BCDC-approved plans, particularly as they pertain to any public access or open space required herein, or environmentally sensitive areas.

I. Lease Renewal. This authorization shall become null and void if the permittee fails to obtain a renewal of the mineral lease for the project site at any time during the life of the permit, including subsequent amendments, if such renewal is required by the State Lands Commission or other public entity or private party. Written documentation of the lease renewal shall be submitted to the Commission's office each year within 15 days of the issuance of the renewal.

III. Findings and Declarations

On behalf of the Commission, I find and declare that:

A. Consistency with Commission Regulations. The project authorized by this permit involves placing approximately 900 square feet of cantilevered fill over the Bay for a bicycle/pedestrian bridge. The new bridge will create a safer (because it's wider than the 8-foot-wide nearby bridge) and more direct public access link to open space areas, residential neighborhoods, Belmont's downtown, the Caltrain Station, the Belmont Sports Complex, and the existing Bay Trail. Construction of the new bridge should result in little disruption to the existing wetlands and little if any adverse environmental effects because the bridge is high enough to allow sun to reach the marsh and no work will be conducted in wetland areas. The bridge will be a prefabricated bridge that will span O'Neil Slough and involve the minimum amount of fill necessary to provide and improve public access to the surrounding area. Therefore, placement of this fill in the Bay involves, "minor fill for improving public access" that complies with section 10701 and that does not exceed 1,000 square feet in area," as defined in Regulation Section 10601(a)(8).

The project also involves placing fill within the 100-foot shoreline band to construct an approximately 130-foot-long path on the north end of the bridge, and an approximately 600-square-foot landing to connect to the existing shoreline path on the southern end of the bridge. The placement of this fill in the shoreline band involves, "the placement of small amounts of inert inorganic fill, the extraction of small amounts of materials, or a substantial change of use of any area so long as the placement, extraction, or change in use does not have a significant adverse effect on present or possible future maximum feasible public access to the Bay consistent with the project," as defined in Regulation Section 10601(b)(1). Further, the project involves routine repair and replacement that will not involve a substantial enlargement of the work authorized herein in both the Bay and within the shoreline band, as defined by Regulation Sections 10601(a)(6) and 10601(b)(5). Thus, this project is considered a "minor repair or improvement" for which the Executive Director may issue a permit, pursuant to Government Code Section 66632(f) and Regulation Section 10622(a),

B. Consistency with McAteer-Petris Act and San Francisco Bay Plan. The project authorized by this permit is consistent with the McAteer-Petris Act and with the San Francisco Bay Plan in that it will not adversely affect the Bay nor public access to and enjoyment of the Bay. Special Conditions have been included to assure that the project will be constructed with best management practices to reduce impacts to sensitive wetland resources and to essential fish habitat, to water quality, or navigation and the authorized improvements will be maintained to provide safe and usable public access, as required by the Bay Plan policies on public access, fish, other aquatic organisms, and wildlife, tidal marshes and tidal flats, water quality and navigational safety. Special Condition II-B-4 requires that the public access provided by the permittee comply with the Americans With Disabilities Act. Therefore, as conditioned, the project complies with Bay Plan Public Access Policy Six which requires "barrier free access for the physically handicapped to the maximum feasible extent," and Sections 66602 and 66632.4 of the McAteer-Petris Act which require "maximum feasible public access."

C. Consistency with the Coastal Zone Management Act. The Commission further finds, declares, and certifies that the activity or activities authorized herein are consistent with the Commission's Amended Management Program for San Francisco Bay, as approved by the Department of Commerce under the Federal Coastal Zone Management Act of 1972, as amended.

D. Consistency with the California Environmental Quality Act. Pursuant to Regulation Section 15061(b)(3), the project authorized by this permit is categorically exempt from the requirement to prepare an environmental impact report.

E. Consistency with the Public Trust. The Commission finds that the fill authorized herein is consistent with public trust needs for the area because the fill is for public access to the Bay.

F. Listing with the Commission. Pursuant to Regulation Section 10620, this project was listed with the Commission on August 6, 2009.

G. Enforcement Program and Civil Penalties. The Commission has an enforcement program that reviews its permits for compliance. The Commission may issue cease and desist and civil penalty orders if violations are discovered. The McAteer-Petris Act provides for the imposition of administrative civil penalties ranging from \$10 to \$2,000 per day up to a maximum of \$30,000

IV. Standard Conditions

A. Permit Execution. This permit shall not take effect unless the permittee executes the original of this permit and returns it to the Commission within ten days after the date of the issuance of the permit. No work shall be done until the acknowledgment is duly executed and returned to the Commission.

B. Notice of Completion. The attached Notice of Completion and Declaration of Compliance form shall be returned to the Commission within 30 days following completion of the work.

C. Permit Assignment. The rights, duties, and obligations contained in this permit are assignable. When the permittee transfers any interest in any property either on which the activity is authorized to occur or which is necessary to achieve full compliance of one or more conditions to this permit, the permittee/transferor and the transferee shall execute and submit to the Commission a permit assignment form acceptable to the Executive Director. An assignment shall not be effective until the assignee executes and the Executive Director receives an acknowledgment that the assignee has read and understands the permit and agrees to be bound by the terms and conditions of the permit, and the assignee is accepted by the Executive Director as being reasonably capable of complying with the terms and conditions of the permit.

D. Permit Runs With the Land. Unless otherwise provided in this permit, the terms and conditions of this permit shall bind all future owners and future possessors of any legal interest in the land and shall run with the land.

E. Other Government Approvals. All required permissions from governmental bodies must be obtained before the commencement of work; these bodies include, but are not limited to, the U. S. Army Corps of Engineers, the State Lands Commission, the Regional Water Quality Control Board, and the city or county in which the work is to be performed, whenever any of these may be required. This permit does not relieve the permittee of any obligations imposed by State or Federal law, either statutory or otherwise.

F. Built Project must be Consistent with Application. Work must be performed in the precise manner and at the precise locations indicated in your application, as such may have been modified by the terms of the permit and any plans approved in writing by or on behalf of the Commission.

G. Life of Authorization. Unless otherwise provided in this permit, all the terms and conditions of this permit shall remain effective for so long as the permit remains in effect or for so long as any use or construction authorized by this permit exists, whichever is longer.

H. **Commission Jurisdiction.** Any area subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission under either the McAteer-Petris Act or the Suisun Marsh Preservation Act at the time the permit is granted or thereafter shall remain subject to that jurisdiction notwithstanding the placement of any fill or the implementation of any substantial change in use authorized by this permit. Any area not subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission that becomes, as a result of any work or project authorized in this permit, subject to tidal action shall become subject to the Commission's "bay" jurisdiction.

I. **Changes to the Commission's Jurisdiction as a Result of Natural Processes.** This permit reflects the location of the shoreline of San Francisco Bay when the permit was issued. Over time, erosion, avulsion, accretion, subsidence, relative sea level change, and other factors may change the location of the shoreline, which may, in turn, change the extent of the Commission's regulatory jurisdiction. Therefore, the issuance of this permit does not guarantee that the Commission's jurisdiction will not change in the future.

J. **Violation of Permit May Lead to Permit Revocation.** Except as otherwise noted, violation of any of the terms of this permit shall be grounds for revocation. The Commission may revoke any permit for such violation after a public hearing held on reasonable notice to the permittee or its assignee if the permit has been effectively assigned. If the permit is revoked, the Commission may determine, if it deems appropriate, that all or part of any fill or structure placed pursuant to this permit shall be removed by the permittee or its assignee if the permit has been assigned.

K. **Should Permit Conditions Be Found to be Illegal or Unenforceable.** Unless the Commission directs otherwise, this permit shall become null and void if any term, standard condition, or special condition of this permit shall be found illegal or unenforceable through the application of statute, administrative ruling, or court determination. If this permit becomes null and void, any fill or structures placed in reliance on this permit shall be subject to removal by the permittee or its assignee if the permit has been assigned to the extent that the Commission determines that such removal is appropriate. Any uses authorized shall be terminated to the extent that the Commission determines that such uses should be terminated.

L. **Permission to Conduct Site Visit.** The permittee shall grant permission to any member of the Commission's staff to conduct a site visit at the subject property during and after construction to verify that the project is being and has been constructed in compliance with the authorization and conditions contained herein. Site visits may occur during business hours without prior notice and after business hours with 24-hour notice.

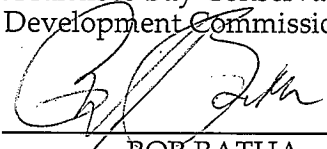
Executed at San Francisco, California, on behalf of the San Francisco Bay Conservation and Development Commission on the date first above written.

WILL TRAVIS

Executive Director

San Francisco Bay Conservation and
Development Commission

By:


BOB BATHA
Chief of Permits

PERMIT NO. M09-18

City of Belmont

August 11, 2009

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cc: U. S. Army Corps of Engineers, Attn.: Regulatory Functions Branch
San Francisco Bay Regional Water Quality Control Board,
Attn.: Certification Section
Environmental Protection Agency, WTR-8

* * * * *

Receipt acknowledged, contents understood and agreed to:

Executed at _____

Applicant

On _____

By: _____

Title

8/4/09
T.Y. Lin International

O'NEILL SLOUGH BRIDGE: PUBLIC ACCESS EXHIBIT

